

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 22-124(2) (NEB/DTS)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	<b>GOVERNMENT'S POSITION</b>
v.	)	<b>REGARDING SENTENCING</b>
	)	
MOHAMED JAMA ISMAIL,	)	
	)	
Defendant.	)	

The United States of America, by and through its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota, and Joseph H. Thompson, Harry M. Jacobs, Matthew S. Ebert, and Daniel W. Bobier, Assistant United States Attorneys, submits the following sentencing memorandum and respectfully requests that the Court impose a sentence of 151 months in prison.

**I. BACKGROUND**

**A. Ismail's Fraud Scheme**

Defendant Mohamed Ismail was convicted of participating in a massive fraudulent scheme to obtain federal child nutrition program funds intended to provide free meals to children in need. The defendant and his co-conspirators obtained, misappropriated, and laundered more than \$40 million in program funds that were intended as reimbursements for the cost of serving meals to children. They did so by exploiting changes in the program intended to ensure underserved children received adequate nutrition during the Covid-19 pandemic. Ismail and his co-conspirators took advantage of the Covid-19 pandemic—and the resulting program

changes—to enrich themselves by fraudulently misappropriating millions of dollars in federal child nutrition program funds.

Ismail was a partner and co-owner of Empire Cuisine & Market, one of the entities that originated the fraud scheme. As the Court will recall, it was Empire Cuisine that enrolled in the federal child nutrition program in April 2020—during the early days of the Covid-19 pandemic and within weeks of their registration of the company with the Minnesota Secretary of State. Ismail and Farah immediately opened a number of federal child nutrition program sites and began claiming—falsely—to be serving meals to thousands of children per day. These claims were fraudulent. As the Court heard at trial, no meals at all were served at many of the Empire Cuisine “sites.” Indeed, at some of the sites, it was instead the Shakopee Public Schools who were actually serving meals to kids on a daily basis.

Ismail’s company was one of the for-profit restaurants that Minnesota Department of Education employees flagged as submitting an alarming number of fraudulent claims in the summer and fall of 2020. This led MDE to change the rules to prohibit for-profit restaurants from operating federal child nutrition program sites. But Ismail and his co-owner Abdiaziz Farah were not deterred. Rather than stop submitting fraudulent meal claims, they began opening their sites in the name of various non-profit entities, and then passing the fraudulently obtained federal child nutrition program funds through to Empire Cuisine.

Ismail was a full partner in Empire Cuisine and in the fraud scheme. During a search of his home in January 2022, agents found an array of documents related to

all aspects of the fraud scheme, including fake meal count sheets. *See, e.g.,* Gov't Ex. H-70q.

**m DEPARTMENT OF EDUCATION**  
**Weekly Consolidated Meal Counts**

Sponsor Name: Partners in Quality Email/Phone: \_\_\_\_\_  
 Site and Supervisor Name: Faribault Week Of: 02/14-02/20  
 Meal Type: ☐ Breakfast ☐ Lunch ☐ Snack ☐ Supper

Meal Counts	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Total
Number of meals received/prepared	1064	1064	1064	1064	1064	1064	1064	7,440
Number of meals available from previous day								
Number of first meals served to children								
Number of second meals served to children (not for camps/SSO sites)								
Number of meals served to program adults								
Number of meals served to non-program adults								
Number of non-reimbursable, incomplete, or damaged meals								
Number of leftover meals								
Number of additional children requesting a meal after all available meals were served								
Money collected/to be collected for adult meals								
Signature of Site Supervisor: _____								
Remarks: _____								

**m DEPARTMENT OF EDUCATION**  
**Weekly Consolidated Meal Counts**

Sponsor Name: PIQC Email/Phone: \_\_\_\_\_  
 Site and Supervisor Name: Winfield Townhomes Week Of: 12/13/20-12/19/2020  
 Meal Type: ☒ Breakfast ☒ Lunch ☐ Snack ☐ Supper

Meal Counts	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	Total
Number of meals received/prepared	910	910	890	890	890	890	890	6270
Number of meals available from previous day								
Number of first meals served to children								
Number of second meals served to children (not for camps/SSO sites)								
Number of meals served to program adults								
Number of meals served to non-program adults								
Number of non-reimbursable, incomplete, or damaged meals								
Number of leftover meals								
Number of additional children requesting a meal after all available meals were served								
Money collected/to be collected for adult meals								
Signature of Site Supervisor: _____								
Remarks: _____								

Agents recovered notes regarding the fake counts submitted for meals purportedly distributed at various sites around Minnesota. *See, e.g.,* Gov't Ex. H-70t.

Clifton = 13,950  
 Samtha = 38,750  
 Autumn = 9,300  
 Winfield = 31,000  
 AS Sunnah = 62,000  
 Albright = 17,050

Total = 172,050

CAERP: 17,174  
 7,967

Total meals  
 249,941  
 ↓  
 25,141

Superstar!

Greenwood = 7,750  
 Lifestyle = 10,900  
 Hevitage = 7,750  
 Highland = 7,750  
 Four Seasons Apt = 10,850  
 CROSS A/V = 7,750

52,750

Agents also recovered fake invoices, including an invoice claiming that Empire Cuisine was entitled to more than \$1.5 million in federal child nutrition program funds for meals purportedly distributed in the month of March 2021. *See, e.g.,* Gov't Ex. H-70, H-70v.

<b>Empire Cuisine &amp; Market</b>			
232 Marschall Road			
Shakopee, MN 55379			
612-644-6843			
Submitted on 03/31/2021			
<b>Invoice for</b>		<b>Payable to</b>	<b>Invoice #</b>
Kara Lomen		Empire Cuisines & Markets	7823
Partners in Quality Care			
1035 7th Street W		<b>Project</b>	<b>Due date</b>
Saint Paul, MN 55102		SFSP SITES	4/15/2021
<b>Description</b>	<b>Qty</b>	<b>Unit price</b>	<b>Total price</b>
Greenwood	9200	\$5.98	\$55,016.00
Four Seasons	10850	\$5.98	\$64,883.00
Autumn Holdings	12400	\$5.98	\$74,152.00
Winfield Townhomes	31000	\$5.98	\$185,380.00
Al Sunnah	62000	\$5.98	\$370,760.00
Heritage Hills	7750	\$5.98	\$46,345.00
Highland Apartments	7750	\$5.98	\$46,345.00
Crossings at V	7750	\$5.98	\$46,345.00
Valleyview Park	9600	\$5.98	\$57,408.00
Clifton	15500	\$5.98	\$92,690.00
Samaha	62000	\$5.98	\$370,760.00
Albright Townhomes	17050	\$5.98	\$101,959.00
Lifestyle Apartments	12400	\$5.98	\$74,152.00
Notes:		Subtotal	<b>\$1,586,195.00</b>
		Adjustments	\$0.00
			<b>\$1,586,195.00</b>

## B. Ismail's Fraud Proceeds

Ismail personally took home more than \$2 million from the fraud scheme in a 12-month period. He spent his money freely.

Over a 14-month period from November 30, 2020 through January 20, 2022, Ismail withdrew \$170,000 in cash from ATMs. He purchased more than \$11,000 worth of firearms and firearms accessories, including a Daniel Defense DDM4 V7 AR-15 style rifle, a Black Rain AR-15-style rifle, a Heckler & Koch VP9-B 9mm handgun, and multiple optical sights and scopes.

In May 2021, he used more than \$130,000 in fraud proceeds to pay off his home mortgage.

Ismail sent much of this money abroad, where it remains to this today. He sent more than \$400,000 in fraud proceeds to China.

<b>Date</b>	<b>Recipient</b>	<b>Amount</b>
March 4, 2021	Jiangxi Enda Linen Co., Ltd. (China)	\$199,785
June 3, 2021	Amaana Money Transfer Co. (Int'l Wire Transfer)	\$52,000
June 29, 2021	Jiangxi Enda Linen Co., Ltd. (China)	\$100,000
July 2, 2021	Continental Logistics Co., Ltd. (China)	\$13,900
August 12, 2021	Guangzhou Logistics Co., Ltd. (China)	\$18,923
October 7, 2021	Shangro City Xiang Enter M Ser C (China)	\$100,000
<b>Total</b>		<b>\$484,608</b>

These were federal child nutrition program funds received by Empire Cuisine & Market. On February 22, 2021, for example, Ismail deposited a \$200,000 check from Empire into his personal bank account. At the time, he only had \$6,000 in his account. Two weeks later, he wired almost all of this money, \$199,785, to a Chinese entity called Jiangxi Enda Linen Co., Ltd.

Notably, despite being the proceeds of his fraud scheme, the money Ismail sent to China has not been seized or forfeited because it is located abroad and outside the reach of American law enforcement. In other words, Ismail will leave prison a wealthy man.

Ismail also owns real estate in both Kenya and Somalia. He owns real estate in the South B neighborhood in Nairobi, Kenya. PSR ¶154. The property is worth

approximately \$200,000. *Id.* Ismail also owns a second apartment that is currently under construction in Nairobi. *Id.* That property is worth approximately \$170,000. *Id.*

Ismail also owns a home in Borama, Somalia, a city of 300,000 near the Ethiopian border. PSR ¶154.

Like the funds he sent to China, these properties are not subject to seizure because they are located outside of the United States.

He will leave prison a wealthy man.

### **C. Ismail's Passport Fraud and Attempted Flight to Kenya**

On January 20, 2022, the government executed search warrants at two dozen locations around Minnesota in the investigation in the scheme to defraud the federal child nutrition program. The search locations included the residences of both Mohamed Ismail and his business partner and future co-defendant Abdiaziz Farah. During the searches, the government seized their passports. A couple of months later, on March 22, 2022, both Ismail and Farah went to the Minnesota Passport Office to apply for new passports. Both Ismail and Farah lied on their passport applications, falsely claiming they had lost their old passports.

On January 20, 2022, federal agents seized Ismail's U.S. passport during the execution of a federal search warrant at his house. The passport was found in a locked safe along with a passport belonging to Ismail's wife. Ismail provided agents the combination to unlock the safe.

In the wake of the search, Ismail and Farah retained attorneys and were informed they were targets of the Feeding Our Future investigation.

Two months later, on March 22, 2022, Ismail and Farah went to the Minneapolis Passport Agency in downtown Minneapolis to apply for new U.S. passports. Each of them lied on their passport applications.

Ismail and Farah each claimed falsely that their passports had been lost. They signed their applications after attesting that they had “not knowingly and willfully made false statements or included false documents in support of this application.”

I declare under penalty of perjury all of the following: 1) I am a citizen or non-citizen national of the United States and have not performed any of the acts listed under "Acts or Conditions" on page 4 of the instructions of this application (unless explanatory statement is attached); 2) the statements made on the application are true and correct; 3) I have not knowingly and willfully made false statements or included false documents in support of this application; 4) the photograph attached to this application is a genuine, current photograph of me; and 5) I have read and understood the warning on page 4 of the instructions to the application form.

3/22/22 x Mouad Ismail  
Applicant's Legal Signature - age 16 and older

Ismail also submitted a required Statement Regarding a Lost or Stolen U.S. Passport Book and/or Card (also known as a Form DS-64). On the Form DS-64, Ismail falsely represented that he had “lost” his passport “at home.” He also falsely claimed that he had filed a police report in connection with his “lost” passport. A search of police records showed that this was not true.

**2. LOST OR STOLEN U.S. PASSPORT BOOK/CARD INFORMATION:** Answer all questions completely. If you do not know the answer in detail, be as exact as possible.

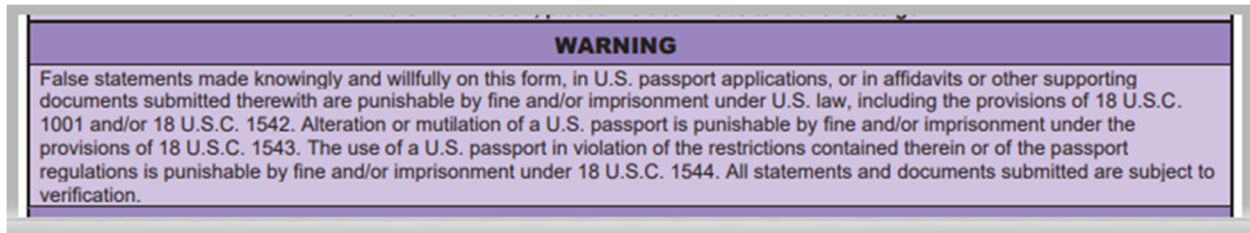
Are you submitting this form in connection with an application for a new U.S. passport book and/or card? ☐ Yes ☐ No

Explain how your U.S. passport book/card was lost or stolen. LOST AT HOME

Did you file a police report? ☒ Yes ☐ No

The Form DS-64 expressly warned that “false statements made knowingly and willfully on this form, in U.S. passport applications, or in affidavits or other supporting documents submitted therewith are punishable by fine or imprisonment under U.S. law, including 18 U.S.C. 1001 and/or 18 U.S.C. 1542.”





Based on these false representations, the U.S. Department of State issued Ismail and Farah new U.S. passports the same day they applied.

Perhaps unsurprisingly, less than two weeks after fraudulently obtaining a new passport, Ismail attempted to use it to leave the country and go to Kenya. On April 4, 2022, Ismail booked a flight departing from Rochester, Minnesota on April 20, 2022, with the ultimate destination of Nairobi, Kenya. Ismail used his new passport to check in for his flight at the Rochester International Airport on April 20. Ismail arrived at MSP airport that afternoon and presented his ticket to board his flight bound for Nairobi. FBI agents arrested him on the jetway.

At the time of his arrest, Ismail was carrying two carry-on bags. He had five full-sized suitcases of checked luggage.

In short, there is every indication that Ismail intended to flee beyond the reach of law enforcement to live out his days on the millions he stole from the American taxpayers.

## **II. THE GUIDELINES RANGE**

### **A. The Base Offense Level and Loss Amount**

The base offense level is 6 pursuant to Guidelines § 2B1.1(a)(1). PSR ¶102. The base offense level is increased 22 levels pursuant to Guidelines § 2B1.1(1)(L) because the loss was more than \$25 million but less than \$65 million. PSR ¶103. The offense



level is increased 2 levels pursuant to Guidelines § 2B1.1(b)(12) because the offense involved conduct described in 18 U.S.C. § 1040 (Fraud in Connection with a Major Disaster or Emergency Benefits). PSR ¶104. The offense level is increased by 2 levels pursuant to Guidelines § 2S1.1(b)(2)(B) because the defendant was convicted under 18 U.S.C. § 1956. PSR ¶110. Another 2-level enhancement applies pursuant to Guidelines § 3C1.1 because the defendant obstructed justice by committing passport fraud and attempting to flee the country and escape prosecution in April 2022. PSR ¶113.

Although the defendant was previously convicted of passport fraud in December 2022, he qualifies as a zero-point offender because his prior conviction is considered relevant conduct to the instant offense. PSR ¶¶116, 122. As such, he receives a 2-level reduction pursuant to Guidelines 4C1.1(a) and (b). PSR ¶116.

Based on the above, the total offense level is 32. PSR ¶118.

## **B. Criminal History**

Ismail was convicted of passport fraud in November 2022 and sentenced to 7 months in prison. PSR ¶122. Because that crime qualifies as relevant conduct and led to the application of an obstruction enhancement in this case, Ismail does not receive any criminal history points for that conviction.<sup>1</sup> Accordingly, he falls into criminal history category I. PSR ¶125.

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<sup>1</sup> Ismail has objected to the application of the obstruction enhancement on the grounds that his passport fraud case had nothing to do with his fraud case. As the PSR pointed out, if that were the case, Ismail would fall in criminal history level II and would not qualify for the zero-point offender reduction under Guidelines § 4C1.1. PSR Addendum at 3-4.

**C. Advisory Guidelines Range**

An offense level of 32 and criminal history level I results in an advisory Guidelines range of 121 to 151 months in prison.

**III. GOVERNMENT’S SENTENCING RECOMMENDATION**

Based on a review of the § 3553(a) factors, the government recommends that the Court impose a sentence of 151 months in prison.

**A. Nature and Circumstances of the Offense**

Ismail participated in one of the largest fraud schemes in the history of the District of Minnesota, and the single largest Covid-19 fraud scheme in the country. He took advantage of a once-in-a-century global pandemic to enrich himself. He abused the generosity of Minnesota’s social safety net—a system designed to ensure that no child goes without food.

Notably, Ismail’s company was one of the first to get involved in the massive scheme to fraudulently obtain federal child nutrition program funds. His was one of the companies that forced MDE to change the rules to prohibit for-profit restaurants for operating federal child nutrition program sites. But, of course, he and his co-conspirators were not deterred. They simply carried on by opening sites through a variety of non-profits and then passing the fraudulently obtain funds to their company, Empire Cuisine.

As noted above, Ismail profited handsomely from his role in the scheme—taking home more than \$2 million in federal child nutrition program funds in 2021 alone. Ismail sent much of this money abroad—he transferred nearly \$500,000 to China and owns real estate in both Kenya and Somalia. To be clear, this money is

beyond the reach of American law enforcement. Neither these funds nor his international real estate holdings have been, or will be, seized or forfeited. Ismail will leave prison a rich man.

Despite the egregious of his fraud scheme, Ismail has never taken any responsibility or expressed any remorse for his crime. Like his co-defendants, he has no contrition for defrauding the very country that took him in.

### **B. History and Characteristics of the Defendant**

Ismail was born in Somalia. PSR ¶130. His family fled to Kenya in 1991, where he spent time in a refugee camp. PSR ¶130. He later attended boarding school in Kenya. PSR ¶130.

Ismail immigrated to the United States in 1999. PSR ¶131. He became a naturalized U.S. citizen in 2005. PSR ¶238. Ismail sponsored his mother and father's immigration to the United States. PSR ¶135.

Ismail found employment in Minnesota, and later started a small business in Shakopee. PSR ¶150. By all measures, Mohamed Ismail was living the American dream. But it wasn't enough. In 2018, Ismail sent his wife and five children to live in Kenya in 2018. PSR ¶131. And then he began egregiously defrauding the state and country that took him in and afforded him so many opportunities.

### **C. The Need for Deterrence**

Ismail participated is one of the largest fraud schemes in the history of the District of Minnesota, and the single largest Covid-19 fraud scheme in the country. But Ismail didn't just take advantage of the Covid-19 pandemic to enrich himself and

his co-conspirators. He took advantage of our state's compassion, and its efforts to ensure no child went hungry.

Make no mistake, Ismail's fraud has done great damage to the state. It has eroded trust in the government and raised questions about the sustainability of the state's system of social services. His crime undermined and endangered legitimate nonprofit organizations that rely on donations to carry out necessary and important charitable work.

Despite this, to this day, Ismail has denied any and all responsibility for his crime. He has not expressed an ounce of remorse for his actions. He appears to have felt no shame.

Importantly in this particular case, the Court must send the message that fraud schemes like this are not worth it. That is particularly true here where Ismail still has a significant amount of fraud proceeds. Make no mistake. Ismail will leave prison a wealthy man, with real estate holdings in both Kenya and Somalia. And for that reason alone, the Court needs to impose a significant sentence. The Court must levy a sentence sufficiently severe that few would deem it worth it, even where \$2 million in ill-gotten gains await them upon completion of their sentence.

Taking into consideration the Sentencing Guidelines, as well as all of the other factors required to be considered under § 3553(a), the government respectfully suggests that a sentence of 151 months in prison appropriately reflects the seriousness of Shariff's crimes, promotes respect for the law, provides a just

punishment, and creates adequate deterrence not only to Ismail, but to all other individuals who take advantage of the state and believe that they are above the law.

#### IV. CONCLUSION

For the reasons stated above, the government respectfully requests that the Court impose a sentence of 151 months in prison.

Respectfully Submitted,

Dated: October 2, 2024

ANDREW M. LUGER  
United States Attorney

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